

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

ROBERT HUDDLESTON
Plaintiff,

v.

JAMES KINNARD
Defendant.

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No.3:14-1848
Judge Sharp

M E M O R A N D U M

The plaintiff, proceeding *pro se*, is an inmate at the Wilson County Jail in Lebanon, Tennessee. He brings this action pursuant to 42 U.S.C. § 1983 against James Kinnard, a member of the Wilson County Bar, seeking damages.

The defendant represented the Estate of John Draper in a probate matter. The plaintiff claims that, during this proceeding, the defendant defrauded him out of money and property promised to him by the Estate.

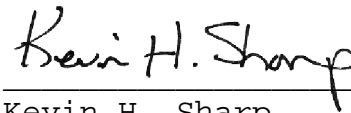
To establish a claim for § 1983 relief, the plaintiff must plead and prove that the defendant, while acting under color of state law, deprived him of a right or privilege guaranteed by the Constitution or laws of the United States. Parratt v. Taylor, 451 U.S. 527, 535 (1981).

It is well settled that attorneys, even those appointed by the courts, do not act "under color of state law" within the meaning of

§ 1983 when representing a client. Polk County v. Dodson, 454 U.S. 312 (1981); Mulligan v. Schlachter, 389 F.2d 231, 233 (6th Cir.1968). Thus, plaintiff's claim that the defendant defrauded him during the settlement of an estate is not actionable under § 1983.

When a prisoner plaintiff proceeding in forma pauperis, as is the case here, fails to state a claim upon which relief can be granted, the Court is obliged to dismiss the instant action *sua sponte*. 28 U.S.C. § 1915(e)(2).

An appropriate order will be entered.

A handwritten signature in black ink that reads "Kevin H. Sharp". The signature is written in a cursive, slightly slanted style. The "K" is large and loops around the "e". The "H" is tall and narrow. The "S" is large and loops around the "h". The "h" is small and loops around the "p". The signature is written on a horizontal line.

Kevin H. Sharp
United States District Judge